



TCA, Inc.

TELECOMMUNICATIONS CONSULTANTS

March 21, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

DOCKETED FOR ORIGINAL
RECEIVED
MAR 24 1997
FCC MAIL ROOM

Regarding: Notice of Inquiry on Usage of the Public Switched Network by Information
Service and Internet Access Providers
CC Docket No. 96-263

Dear Secretary:

TCA, Inc. - Telecommunications Consultants (TCA) files its comments on the Usage of the Public Switched Network by Information Service and Internet Access Providers. Enclosed are the original and sixteen copies of TCA's comments along with an electronic copy via diskette.

Sincerely,

Randall R. Zach

Enclosures

No. of Copies 0216
Listed Below

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL
RECEIVED
MAR 24 1997
FCC MAIL ROOM

In the Matter of)
)
Usage of the Public Switched) CC Docket No. 96-263
Network by Information Service)
and Internet Access Providers)

COMMENTS OF

TCA, INC. - TELECOMMUNICATIONS CONSULTANTS

TABLE OF CONTENTS

I.	Introduction and Summary	2
II.	Access Charges	2
III.	Incentives for Facilities Enhancements	3
IV.	Cost Recovery	3
V.	Access Provider vs. End User	4
VI.	Affect on Other Proceedings	5
VII.	Other Issues	5
VIII.	Conclusion	6

I. Introduction and Summary

TCA, Inc. - Telecommunications Consultants is a consulting group that serves small rural local exchange carriers (Small LECs). These Notice of Inquiry comments address the concerns of Small LECs. In the Notice of Proposed Rulemaking on Access Charge Reform, the Commission has "tentatively concluded that information service providers should not be subject to interstate access charges as currently constituted." (Par. 311) Enhanced service providers (ESPs) have historically been considered "end users" instead of "carriers." These two issues are at the heart of the problem. ESPs are not different from other access providers and must be subject to the same rules. In addition, LECs must be given the regulatory flexibility to charge access to the carriers providing the services to end users.

II. Access Charges

The public switched telephone network is a network of networks. Currently, interexchange carriers (IXCs) connect with local exchange carriers (LECs). Local exchange carriers charge IXCs for "access" to their network and ultimately access to the customer. ESPs' services directly parallel that of IXCs. ESPs need to access the customer through the LEC facility. This is dial-up access and must be treated as such. For this reason, enhanced service providers should be charged access fees.

To further enhance this position, we can look at the local competition proceedings. One of the fundamental ideas in this proceeding is to allow competitors to resell the local loop while the facilities provider retains the access revenue related to calls placed over these leased loops. Since the ESP does not provide the facilities, they should not be allowed to have free access to the customer.

III. Incentives for Facilities Enhancements

Incentives do not exist today for bringing advanced facilities to enhanced services users. In fact, Small LECs are losing income while providing access to these services. For example, Internet users are generating a tremendous increase in local minutes. This impacts the LECs cost separations process. More costs are allocated to the local jurisdiction. The revenue that the LEC receives through additional lines from both the Internet Service Provider (for their modem banks) and local users (who want an access line dedicated to the Internet) does not cover the shift in costs.

Local rates then must increase to cover the increase in revenue requirement. Some states have restrictions on local rate increases. Furthermore, increasing local rates is economically inefficient because the cost-causer does not pay for the increased costs as a result of Internet usage. Those local customers who are not using the enhanced service end up supporting those that do use it. Local measured service would allow LECs to recover costs associated with increases in call volumes. However, few states allow mandatory local measured service.

IV. Cost Recovery

Today's networks were not designed to handle the increased call volumes that ESPs generate. LECs have been forced to expand their facilities without a corresponding feasible method of recovering these costs. Furthermore, increases in costs must be recovered from those using the service, not all users in general.

The fact that access charges are not currently being charged to ESPs complicates the current regulations for Small LECs. Under rate base regulations, Small LECs are required to perform traffic studies to separate costs among jurisdictions. Traffic studies jurisdictionalize calls on the basis of their origination and termination. So a call which originates in one state and terminates in another is classified as "interstate." Today, an average Internet access call is an exchange of data across state lines but is classified as local. LECs must be allowed to classify these truly interstate calls as interstate and charge access on the call.

V. Access Provider vs. End User

First, let us establish some definitions. End users are consumers. Access providers provide access to services and may or may not be consumers. Someone cannot be considered an end user if they receive payment for providing a service to someone else.

ESPs cannot be classified as "end users." They are not at the "end" of the process. The end user in the case of Internet is the consumer--the individual paying monthly fees to "access" the Internet. The "access" provider is the ESP. They provide access to the Internet. ESPs could just as well be called the Enhanced Service *Access* Providers. They connect the consumer to the service the consumer desires. It is clear that ESPs are access providers and should pay access charges just like long distance *access* companies pay access charges.

VI. Affect on Other Proceedings

Obligating ESPs to pay access charges would require rule changes through the Access Charge Reform proceeding (CC Docket 96-262). The Access Charge Reform proceeding must clarify that ESPs will be subject to the decisions made in the proceeding and that ESPs are indeed access providers.

VII. Other Issues

A. Internet Telephony

Internet telephony is a perfect example of why ESPs must be treated as "access" providers. ESPs and IXC's both carry data. IXC's carry voice data along with non-voice data over the same facilities. ESPs deliver data too, but they do not believe that they should be treated the same as an IXC who ultimately is in the same business. Both entities transfer "data." Physically, they both utilize the same types of facilities, whether it is copper wire, fiber optics, or wireless means. Furthermore, the form of the data is irrelevant. It is widely known that the Internet can accommodate telephony voice data. This fact alone blurs the line between ESP and IXC. Therefore, ESPs must also pay access charges.

B. Enhanced Service Provider Pricing

A review of informal comments that have already been submitted via e-mail to the FCC web site (<http://www.fcc.gov/isp.html>) reveals end users' concerns about being charged on a per-minute basis rather than a flat fee for access to the Internet. Their concerns are legitimate but are not relevant to this proceeding. This is a pricing issue. We strongly urge the Commission to only

review whether access charges should be assessed to the ESP. How the ESP prices its service to the end user is entirely at the ESP's discretion. The FCC does not force an IXC to provide flat rate versus minute sensitive pricing and it should not try to regulate the ESP on pricing.

VIII. Conclusion

Internet service providers and other enhanced service providers are generating large traffic volumes that are having a negative impact on the recovery of costs for Small LECs. Allowing ESPs to obtain access without paying access charges is economically inefficient because users who do not use the services are ultimately subsidizing those who are using ESP services. Also, calls to the ESP usually result in the transfer of information across state boundaries. The FCC should address this interstate traffic by applying access charges to ESPs.

Respectfully submitted,

Randall R. Zach
Senior Financial Consultant
TCA, Inc.-Telecommunications Consultants
3617 Betty Drive, Suite I
Colorado Springs, CO 80917

March 21, 1997

APPENDIX A SERVICE LIST

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Julia Johnson, Commissioner
Florida Public Service Commission
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure, Commissioner
Missouri Public Service Commission
301 W. High Street, Suite 530
Jefferson City, MO 65101

The Honorable Sharon L. Nelson, Chairman
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

The Honorable Laska Schoenfelder, Commissioner
South Dakota Public Utilities Commission
State Capitol, 500 E. Capitol Street
Pierre, SD 57501-5070

Martha S. Hogerty
Public Counsel for the State of Missouri
P.O. Box 7800
Jefferson City, MO 65102

Anna Gomez
Federal Staff Chair
Federal Communications Commission
2100 M Street, N.W., Room 8617
Washington, D.C. 20036

Paul E. Pederson
State Staff Chair
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Lisa Boehley
Federal Communications Commission
2100 M Street, N.W., Room 8605
Washington, D.C. 20554

Charles Bolle
South Dakota Public Utilities Commission
State Capitol, 500 E. Capitol Street
Pierre, SD 57501-5070

Deonne Bruning
Nebraska Public Service Commission
300 The Atrium
1200 N Street, P.O. Box 94927
Lincoln, NE 68509-4927

James Casserly
Senior Legal Advisor
Office of Commissioner Susan Ness
Federal Communications Commission
1919 M Street, Room 832
Washington, D.C. 20554

John Clark
Federal Communications Commission
2100 M Street, N.W., Room 8619
Washington, D.C. 20554

Bryan Clopton
Federal Communications Commission
2100 M Street, N.W., Room 8615
Washington, D.C. 20554

Irene Flannery
Federal Communications Commission
2100 M Street, N.W., Room 8922
Washington, D.C. 20554

Daniel Gonzalez
Legal Advisor
Office of Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Emily Hoffnar
Federal Communications Commission
2100 M Street, N.W., Room 8623
Washington, D.C. 20554

L. Charles Keller
Federal Communications Commission
2100 M Street, N.W., Room 8918
Washington, D.C. 20554

Lori Kenyon
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501

David Krech
Federal Communications Commission
2025 M Street, N.W., Room 7130
Washington, D.C. 20554

Debra M. Kriete
Pennsylvania Public Utilities Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Diane Law
Federal Communications Commission
2100 M Street, N.W., Room 8920
Washington, D.C. 20554

Mark Long
Florida Public Service Commission
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399

Robert Loube
Federal Communications Commission
2100 M Street, N.W., Room 8914
Washington, D.C. 20554

Samuel Loudenslager
Arkansas Public Service Commission
P.O. Box 400
Little Rock, AR 72203-0400

Sandra Makeeff
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Philip F. McClelland
Pennsylvania Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

Michael A. McRae
D.C. Office of the People's Counsel
1133 15th Street, N.W. -- Suite 500
Washington, D.C. 20005

Tejal Mehta
Federal Communications Commission
2100 M Street, N.W., Room 8625
Washington, D.C. 20554

Terry Monroe
New York Public Service Commission
3 Empire Plaza
Albany, NY 12223

John Morabito
Deputy Chief, Accounting and Audits Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W., Suite 812
Washington, D.C. 20554

Mark Nadel
Federal Communications Commission
2100 M Street, N.W., Room 8916
Washington, D.C. 20554

John Nakahata
Senior Legal Advisor
Office of Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Lee Palagyi
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive S.W.
Olympia, WA 98504

Kimberly Parker
Federal Communications Commission
2100 M Street, N.W., Room 8609
Washington, D.C. 20554

Barry Payne
Indiana Office of the Consumer Counsel
100 North Senate Avenue, Room N501
Indianapolis, IN 46204-2208

Jeanine Poltronieri
Federal Communications Commission
2100 M Street, N.W., Room 8924
Washington, D.C. 20554

Michael Pryor
Federal Communications Commission
2100 M Street, N.W., Room 8905
Washington, D.C. 20554

James Bradford Ramsay
National Association of Regulatory Utility
Commissioners
P.O. Box 684
Washington, D.C. 20044-0684

Brian Roberts
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Gary Seigel
Federal Communications Commission
2000 L Street, N.W., Suite 812
Washington, D.C. 20554

Richard D. Smith
Federal Communications Commission
2100 M Street, N.W., Room 8605
Washington, D.C. 20554

Pamela Szymczak
Federal Communications Commission
2100 M Street, N.W., Room 8912
Washington, D.C. 20554

Lori Wright
Federal Communications Commission
2100 M Street, N.W., Room 8603
Washington, D.C. 20554